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# QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

## Note verbale dated 9 March 2001 from the Permanent Mission of Myanmar to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights

The Permanent Mission of the Union of Myanmar to the United Nations Office and other international organizations in Geneva presents its compliments to the secretariat of the fifty-seventh session of the Commission on Human Rights and has the honour to enclose herewith a copy of a memorandum concerning the situation of human rights in Myanmar.

The Permanent Mission would be grateful if the aforementioned document* could be circulated as an official document of the fifty-seventh session of the Commission on Human Rights under agenda item 9 in all United Nations official languages.

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* Reproduced as received, in English only.

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**Annex**

***Myanmar today in a nutshell***

*A good understanding of 5 fundamental phenomena --- 3 specific characteristics, a vision and one political process in Myanmar --- is essential to a full and proper appreciation of the current situation in Myanmar.*

***The first characteristic specific to Myanmar*** *is that Myanmar is a multi-racial society with 135 national races.*

***The second specific characteristic*** *is its strategic geopolitical position, forming a link between South Asia and South-East Asia and situated alongside the biggest and most powerful Asian neighbouring countries.*

***The third specific characteristic*** *is that the problem of insurgency and that of maintaining peace and tranquillity have bedevilled the country since its independence in 1948 until recently.*

***A vision*** *shared by all the Myanmar people is to establish a modern, peaceful and developed democratic state.*

***The most important current political process,*** *taking place in Myanmar, is the constitution-making process through the National Convention that will lead to the emergence of a strong and enduring state constitution and the subsequent election of a democratic government in accordance with the new constitution.*

*Because of these characteristics specific to Myanmar, the following are the foremost national tasks,*

- ***to safeguard and consolidate unity and solidarity among the national races;***
- ***to maintain peace and tranquillity throughout the country;***
- ***to safeguard non-disintegration of the Union and sovereignty and to pursue an independent and active foreign policy.***

*The concrete achievements, accomplished by the State Peace and Development Council since its advent in 1988, include, among other things,*

- ***the prevalence of peace and tranquillity throughout the country;***
- ***an unprecedented degree of national unity and reconsolidation;***
  *17 armed groups except one faction, have returned to the legal fold and joined hands with the Government. Only one faction of the KNU remains outside the legal fold.*
- ***the significant economic progress, and the social and cultural uplift and the improvement of the living standards of the people;***
  *Myanmar's economy has registered a healthy average growth rate of around 6.6 percent in current five-year plan for 1996-1997 to 2000-2001.*
- ***the infrastructure-building on an unprecedented scale throughout the whole country;***
  *The Government has completed to-date 170 bridges including 5 Ayeyarwady River-crossing bridges, 114 dams, 43 hospitals, 79 dispensaries, 35959 primary schools, 2112 secondary schools, 953 high schools and 3844 miles of road, to mention just a few statistics and also* ***the border area development on an unprecedented scale*** *for national races living in frontier areas.*

*Inspired by the aforementioned vision, the Myanmar Government and the people are laying down a firm foundation to establish a modern, peaceful and developed democratic state through the process of the National Convention. They are also striving with verve and vigour to develop the country and to improve the well-being and political, economic and social life of the entire nation. In so doing, they are, indeed, most effectively protecting and promoting fundamental human rights and advancing the right to development.*

*The following memorandum offers a fairly comprehensive and yet concise overview of the positive developments in Myanmar.*

The present memorandum has been prepared for the ready reference of the Members of the Commission on Human Rights and observer delegations in order to enable them to better understand the real situation prevailing in the Union of Myanmar.

It is hoped that the participants of the 57th Session of the Commission on Human Rights will take into account these specific characteristics of Myanmar and the positive developments in the country and will view this question from a more objective and balanced perspective.

## Introduction

The 56th Session of the Commission on Human Rights adopted on 18 April 2000, resolution 2000/23 on the situation of human rights in Myanmar. Resolution 2000/23 decided to continue its consideration of the situation of human rights in Myanmar at the 57th session of the Commission on Human Rights. The resolution, inter alia, urged the Government of the Union of Myanmar to take certain measures in some areas of concern to the international community. Following the adoption of the draft resolution, the Permanent Representative of the Union of Myanmar H.E. U Mya Than contended that the draft resolution is thoroughly flawed because of its politicized nature and is aimed at belittling and downgrading the concrete achievements of the Myanmar Government. The draft resolution drew strong objections not only from the delegation of Myanmar but also from the delegations of many countries from Asia and the Pacific, as it is politically motivated and prejudges the question of the so-called "forced labour" in Myanmar. The practice of forced labour is non-existent in the country, and has been effectively prohibited by culture, by practice and by law.

As such, Myanmar is resolute and steadfast in her total rejection of the draft resolution. Moreover, the draft resolution turns a blind eye to the concrete and tangible achievements accomplished by the State Peace and Development Council such as prevalence of peace and tranquillity in the country, national unity and reconsolidation, significant economic progress and unprecedented scale of infrastructure-building and border areas development.

The draft resolution also makes a sweeping conclusion that the National Convention is not in a position to further the restoration of democracy and national reconciliation, turning a blind eye to the fact that the National Convention has completed 15 chapters and 104 fundamental principles to be incorporated in the new State Constitution.

Myanmar is of the view that the draft resolution is factually incorrect, politically motivated and aimed at tarnishing the image of the country, and is used as a political instrument to exert pressure on the Government. For these reasons, the Myanmar delegation was compelled to completely dissociate itself from the draft resolution. This, however, does not alter Myanmar's consistent policy of cooperating with the United Nations to the fullest extent possible. It also continues to demonstrate its sensitivity to and the understanding of the concern of the international community.

During the period under review by the 57th session of the Commission on Human Rights, Myanmar has indeed, witnessed a number of significant positive developments which are outlined below for favour of careful consideration by the member or observer delegations.

## Efforts for the prevalence of peace and stability

Peace and development are inseparable and mutually reinforcing. Development is not achievable in any country without first establishing peace.

Drawing lessons from the post-independence history of the country replete with the armed insurrections of the ethnic groups, resulting primarily from the divide-and-rule policy of the British colonial administration during the colonial era, the Government strongly believes that lasting peace can be achieved only through the strengthening of the unity among the national races. This belief led the Government to undertake energetic efforts to establish peace with the armed groups of the national races as a matter of top priority. As a result, the Government has been able to maintain peace and stability throughout the country. This is the first time in many decades that peace can be maintained for so many years on end. In the meantime, with a view to further consolidating the existing peace, the Government has launched an ambitious plan for the development of border areas and national races. The Government has spent over 20 billion Kyats on the plan.

Efforts are under way to persuade the sole remaining armed group --- one faction of the Karen National Union (KNU) --- to follow the example of other groups and return to the legal fold. This faction of the KNU is at present, still engaged in a futile armed struggle against the Government and still remains intransigent to the overtures for peace.

The KNU which was declared illegal in 1949, has undergone many changes both in its leadership and political programme. Currently, it masquerades as a democratic force and is trying to destabilize the peace and stability achieved so far in the border areas by instigating those armed groups which had already returned to the legal fold to reject the efforts of the Government and people to build a peaceful, prosperous and democratic nation.

However, the fighting strength of the remaining faction of the KNU has considerably declined since some five years ago when most of its ranks and files, who were dissatisfied with the leadership and who wanted peace, broke away from the main organization. It has lost all of its major camps in the country proper and its movements are now limited to operations in the form of small mobile units in certain areas across the border.

On the other hand, family members, sympathizers and supporters of the KNU are still based in the so-called refugee camps established across the border since the 1980s to elicit the support and sympathy of the international community. These camps are used by the KNU as a safe haven as they store their weapons there and launch attacks on the Government and the local populace of Myanmar.

It must be listed out that unfounded allegations and accusations against the Government emanate from these camps and also from the pocket areas in the frontier areas of the country where KNU remnant still hide. These allegations were quoted by those who bear ill-will against the Government as "credible sources" of news regarding Myanmar and thus deliberately misleading the world community.

However, the Government, with sincerity and patience still extends an olive branch to the remaining faction of KNU and is ready to receive them back, including those living in the so-called refugee camps. In fact, in response to the goodwill gestures of the Government , one faction of the KNU -- the Democratic Karen Buddhist Association (DKBA) -- has already returned to the legal fold. So did hundreds and hundreds of the remaining members of the KNU and they were warmly welcomed by the authorities by providing assistance. They have realized the genuine goodwill of the Government and are now participating in the regional activities. As many more are continuously coming into the legal fold, soon, the Kayin State will be a part of the development activities in the country.

Now is the time for the leader of the remaining faction of the KNU to seriously consider their main objectives for the Kayin people and to commit themselves to bring peace and prosperity to their people and to the whole nation as well. They can look at the other armed national groups who have come into the legal fold and are working together with the Government for the betterment of their respective peoples. The remaining faction of the KNU would be welcomed similarly with open arms and their aspirations to develop their own race will be realized in a peaceful manner.

## Suppression of narcotic drugs

The border areas of the Union of Myanmar have lagged behind other parts of the country in development owing to inadequate infrastructure and internal insurgency problems in the past. It is in these areas that most of the country's 135 national races reside. As the terrain is rough and mountainous, most areas are hard to reach. So the local populace relied totally on poppy cultivation which, unlike other perishable produce, does not need to depend on roads for transports. Years of ignorance made them insensitive in the past to the effects that opiate drugs have on the society and mankind.

Needless to say, the poppy cultivation was introduced into the country by the colonialists as it is not indigenous to Myanmar. Opium dens were even allowed to open freely in the country despite strong objection from the people, Buddhist clergy and the American Baptist missionaries. Later, in the early 1950s, the Kumintang (KMT) troops which were forced out of the Southern Yunan Province of China by the People's Liberation Army of the People's Republic of China, took refuge and established base camps in Myanmar territory. They were encouraged, supported and financed by a western power with the aim of blocking further communist expansion in Asia. In the aftermath of the Second World War, the CIA encouraged the production of opium in the region to help finance its own activities and its KMT allies. The proceeds were also used to pay for the considerable arsenal of arms supplied to the KMT and other various groups in Myanmar . No doubt, these activities also sowed the seeds of the current drug production problems in the border areas of Myanmar. After the bulk of the KMT were flown out of Myanmar, remnants of two divisions of the KMT remained active in those areas until 1996. They encouraged not only poppy cultivation in the golden triangle area as well as on the Myanmar-Yunan (PRC) border, but were also responsible for the refining of opium into heroin and creating heroin markets in the region.

Abuse and illicit trafficking of narcotic drugs bring about crimes and undesirable activities like money laundering and deterioration of the moral characters of the population. The drug issue is a major socio-economic challenge to mankind. As it is a threat to the right of the people to enjoy a decent quality of life, the Government of the Union of Myanmar has been carrying out anti-narcotics measures as a national endeavour. In so doing, Myanmar has always contributed unstintingly to the fight against narcotic drugs. Myanmar has also made great sacrifices. 776 of her soldiers sacrificed their lives and 2350 sustained injuries from the period 1988 to 1997.

The Government regards the suppression of narcotic drugs as a national task and the top priority. It has made all-out efforts for a three pronged attacks aiming at supply reduction, demand reduction and law enforcement. As stated above, certain border areas of Myanmar have totally relied on poppy cultivation in the past. To totally change this situation, the Government has decided that it must strive for the development of border areas and national races. To this end, a Central Committee for the Development of Border Areas and National Races was formed on 25 May 1989. For more effective implementation of border areas and national races development, a separate ministry was instituted on 24 September 1992 and the Law on Development of Border Areas and the National Races was promulgated on 13 August 1993. The main purpose of the Law is the total elimination of poppy cultivation through creation of alternative economic activities for the local populace.

Myanmar has drawn up and is implementing a 15-year Narcotic Elimination Plan from 1999/2000 to 2013/2014 with its own resources. Opium cultivation decreased 30 per cent compared with the previous year. This received world recognition. The Government of Myanmar has invested 5613.569 million of Kyats and 150 million US dollars in its campaign against drug abuse. The problem of drugs is not confined to an individual, a race or a country. It is a problem of the whole human race. Myanmar will not waiver from this task and continue to combat this horrible scourge until it achieves its goal --- a drug-free nation.

Mongla area has been declared as drug-free zone on 22 April 1997 ---- the first such drug-free zone in the world. Arrangements are under way to establish other areas as drug-free zones one after another.

Accordingly, several areas have been declared opium-free zones and poppy cultivators have now turned to alternative crops and stepped-up law enforcement measures have led to increase seizures of narcotic drugs. The 1997-98 records showed that 49,000 acres of poppy plantations were destroyed by the government and the people. As crop substitution, buckwheat is being cultivated in these areas with the assistance from Japan. On the other hand, law enforcement personnel regularly seize and destroy illicit drugs and heroin refining laboratories. Members of the Diplomatic Corps and journalists are always invited to attend the large-scale destructions of narcotic drugs.

Myanmar also played host to the Fourth International Heroin Conference in Yangon in February 1999. This conference was attended by delegates from 28 countries and it contributed to enhance cooperation and understanding among nations to combat the war on drugs. While in Yangon, delegates to the Conference took part in, and witnessed the destruction of narcotic drugs in Myanmar.

One of the reasons why the authorities of Myanmar decided to accept the Conference to be held in Yangon is because Myanmar believes that with the cooperation of the international community, Myanmar's fight against narcotic drugs can and will be more effective. The Secretary General of the INTERPOL, in his message to the conference commented that *"it is high time the international community becomes acquainted with the excellent work that is being carried out in Myanmar against the illicit production and trafficking of heroin"*.

While the issue of the illicit production and trafficking in heroin is being tackled, a synthetic drug in the name of *methamphetamine* has forced its way into the regional drug scene. This drug has surfaced in Myanmar just over two years ago. Anti-narcotic officials of Myanmar are cooperating with the countries and organizations in the region that have more experience and expertise for the control of this drug.

Drug menace is a global problem, requiring a global response. Accordingly there is a growing consensus of the need for concerted efforts of the world community based on the principle of shared responsibility. As for Myanmar, she is committed to the total elimination of narcotic drugs ---- be it with or without the outside assistance. The Government and the people of the Union of Myanmar will continue to abide by this commitment with dedication and will carry out the task to the end. But for those with vested interests, it would be better for them to put politics aside and work for that common goal just for the sake of millions of people around the world whose lives are threatened and affected by this drug trade.

The elimination of narcotic drugs also facilitates the alleviation of poverty in the border areas. By working for the elimination of drugs, the populace of the border areas will also achieve at the same time better health care, education and infrastructure development and better life style. Bearing these lofty goals in mind, the Government will continue to implement the 15-year plan and will at the same time cooperate with other ASEAN countries to achieve the vision of a "Drug Free ASEAN" by the year 2020.

## Process of democratization

The establishment of a democratic society in the Union of Myanmar is the cherished goal of the Myanmar people. As they are fully committed to the achievement of this goal, they are now laying grounds for the emergence of such a democratic state. Such a democratic system ought to reflect the aspirations of all the 135 national races of the country. While laying the ground work for a multi-party democratic system, the Government regards itself as a transitional government for the benefit and interest of the people and the nation. In other words, it is in the process of establishing and consolidating national unity, peace, stability and all-round development in the country in order that Myanmar may become a peaceful, prosperous, modern and developed nation in a not too-distant future.

A strong and enduring state constitution is a pre-requisite for building a multi-party democratic state. Myanmar has had two constitutions since her independence from Britain. The first (1947) Constitution was drafted in haste and according to Britain's requirements. Serious flaws were embedded in it, and one of which was the question of secession of the national races after ten years of independence. The insurgency problem which still haunts the country is the legacy of this constitution. In 1962, after the military took over the state power, the 1947 Constitution was abolished and a new one-party socialist constitution came into existence in 1974. Again this constitution was abolished in 1988 for a multiparty democratic system.

The country has gone through hard times because of the way some political parties acted in the past and also due to the inherent weakness of the previous constitutions. To keep the country perpetually stable and to have a functioning democracy, it is essential for Myanmar to have a strong and enduring constitution.

With this in mind, the National Convention, a disciplined forum for political dialogue has been convening with the aim to lay down fundamental principles to be enshrined in the future state constitution. All political parties as well as representatives from all strata of society are taking part in the convention giving their opinions and discussing to finalize the state constitution that would reflect the aspirations of all the 135 national races, residing in the Union. Through open and frank deliberations, the delegates have so far managed to reach consensus on 18 chapters and 104 basic principles. At the moment, the National Convening and Work Committees of the National Convention are working on the basic principles in the matter of power sharing between the central organs of the State and those of the States and Divisions. With half of the National Convention already completed, the delegates will be able to discuss this important and sensitive issue when the National Convention reconvenes. In view of the sensitive nature and its far-reaching implications for the future of the country, it is vital for the National Convention to proceed with great caution to safeguard the interest of all national races and not to repeat the shortcomings of the previous constitutions.

The Government firmly believes that the National Convention is the only political process suitable for Myanmar and that consensus will be achieved finally for a system which will ensure enduring peace and stability and prosperity in the country.

The Myanmar Government has managed to achieve the national reconsolidation and nation-building, an achievement which previous Governments were not able to accomplish and has also promoted peace and stability in the country. On the other hand, political and economic development is still sensitive and fragile and one false move could get the country to slide back into chaos and anarchic situation. With this in mind, it would not be difficult to understand why the government is determined to keep the momentum.

In this perspective, it is also important for the political parties in Myanmar to abide by the existing laws of the country. The Government does not interfere with the activities of the political parties when they pursue their work within the boundaries of the laws.

Like other political parties, the National League for Democracy (NLD) also enjoys all its rights and responsibilities under the existing laws. Nevertheless, at present, NLD is bent to take advantage of the tolerance of the Government and has, on more than one occasion, pursued courses of actions which could lead to undesirable upheaval.

It is also a known fact that Daw Aung San Suu Kyi is also initiating and takes part in political activities of her party within the boundaries of prescribed regulations and her personal safety.

The Government is committed to establish a democratic society in the country according to the aspirations of its countrymen. As the Government is transitional in nature, it does not intend to exercise state power any longer than it is necessary and this stance has been repeated time and again. It will transfer the state power to the people by convening a parliament once a firm and enduring state constitution has been adopted.

However, a constitutional process in a country can proceed only as far and as fast as circumstances permit. Myanmar is no exception, but the Government is doing its utmost for the advancement of the democratization process in the most expeditious manner.

In fulfilling its responsibility to implement the transition of the country from one political and economic system to another, the Government has to balance the political rights of one person or one political party with the rights of the whole population to live in peace and security. It also has to see the right to development of the entire population. At present, the Government views the right of the whole population to be of greater importance.

Attempts from the outside to set the pace and influence direction for Myanmar would not only hinder the process of democratization but also prove to be counterproductive. However, the Government of the Union of Myanmar will continue to be resolute in its commitment to establish a genuine multi-party democracy and will not waver from the political agenda it has laid down.

## Economic development of the country

The market-oriented economic policy of the Government and its full encouragement of the private sector has led to the achievement of sustained economic growth for the country over the several past years. The country achieved an average annual growth rate of 7.5 percent against the original target of 5.6 percent in its four-year plan from 1992-93 to 1995-96. Total investment increased by an average annual growth rate of 31.6 percent during the plan period. This achievement was attained relying almost entirely on the country's own resources and foreign direct investment and also without the benefit of official development assistance (ODA) and concessional loans. However, the currency crisis in Asia has resulted in 5.3 percent reduction of foreign investment commitments in fiscal year 1997-98 compared to those in previous fiscal year and there were some slow-downs in economic growth. Even then the economic growth rate was still considerable, registering 5.7 percent against the target of 6.4 percent for the fiscal year 1999-2000.

A growth rate of slightly over 10 percent has been registered in the current year 2000-2001. As adequate infrastructure is a precondition for the sustained development of the country, the Government is focusing its efforts on infrastructure development. The Government has completed to-date 170 bridges including 5 Ayeyarwady River-crossing bridges, 114 dams, 43 hospitals, 79 dispensaries, 35959 primary schools, 2112 secondary schools, 953 high schools and 3844 miles of road, to mention just a few statistics and also border area development on an unprecedented scale for national races living in frontier areas.

For the economic development of the country, another sector to which the Government is paying particular attention is the agriculture sector. The agriculture sector of Myanmar accounts for 38 percent of GDP, 40 percent of total exports and employs 63 percent of total labour force. Therefore, agriculture sector occupied a place of importance in Myanmar economy. With a favourable ratio of population to land and abundant water resource, it is also an area Myanmar has a marked comparative advantage. For this reason, the first of the four national economic objectives of the Government is the development of agriculture as the base for all-round development of other sectors of the economy as well. To promote agriculture productivity, the Government has laid down five strategic measures under which it is carrying out an extensive programme of land reclamation in wet land and virgin land, granting large land holdings to private companies. As a result, the private sector alone has added 1.1 million acres to the existing arable land. At the same time, with a view to provide sufficient water to the agriculture sector, the Government has instituted a substantial programme for the construction of new reservoirs and dams, resulting in considerable increase in irrigated areas. Up to now the Government has constructed 114 dams. Through these efforts for the promotion of agriculture productivity, the Government is aiming to increase its export of rice and to contribute to food supply both domestically and regionally.

## Positive developments regarding the recommendations of the ILC

The Union of Myanmar with her recorded history of over three thousand years, is rich in culture and tradition. Among the traditional customs endeavoured in Myanmar since time immemorial and which is still in practice is the contribution of labour. Myanmar nationals believe that the contribution of labour is both meritorious and conducive to mental and physical well-being. Accordingly, the local populace contribute labour in village community works. Construction and maintenance of religious edifices like pagodas, monasteries and temples, constructions of roads, bridges, hospitals as well as digging and cleaning lakes, ponds, wells and irrigation systems. The populace, who are contributing labour, look fresh and happy with full of mirth and laughter and in festive mood. They do not at all look unhappy; nor do they show signs of being forced to work against their will. This is one of the strong and clear proofs of the difference between the East and the West.

As the areas which were once held by the armed groups are now peaceful, owing to the Government's national reconsolidation process, a large number of armed forces personnel are now assuming the full responsibility for the construction of new motor roads and railroads in the country. In the past, when insurgency problem was rampant in the country, the Armed Forces members have sometimes had to employ civilian labourers to transport equipment and supplies over difficult terrain in the remote areas during military operations. Wages and other basic needs were adequately provided to the labourers in accordance with the rules and regulations of the country. Even such use of civilian labourers by the Armed Forces is not in practice now as almost all the armed groups have returned to the legal fold. The Government does not practise or condone the practice of forced labour.

But in recent years, there had been numerous allegations of the practice of forced labour in Myanmar and also that the relevant sections of the existing Village Act and the Towns Act of 1907, a legacy from the British colonial rule, were not compatible with the Forced Labour Convention 1930 (No.29).

Under the instruction of the Government of the Union of Myanmar, the Ministry of Home Affairs embarked on a review process in coordination with other Ministries either to amend or to supplement or to repeal the aforementioned two Acts to bring them in line with the changing situations and conditions of the country.

As a result of this review process, the Home Ministry issued Order No.1/99 on 14 May 1999, which instructs the Village Tract and Ward Peace and Development Councils and other local authorities concerned not to exercise the powers under those provisions of the two Acts relating to requisition for personal services. As the Order 1/99 was issued under the Directive of the State Peace and Development Council, which is the law-making body of the nation, it has the full force of law. It is indeed law.

Various means were utilized to give the widest possible publicity to the Order by explaining about it to the local and international media, in addition to circulating it to the State bodies and local authorities concerned. Moreover, the Order was published in the official National Gazette on 25 June 1999 - an official record where all laws, notifications, rules, regulations, directives and orders are officially published. This Order clearly stipulates that any person who fails to abide by the order shall have actions taken against him or her.

Furthermore, the Ministry of Home Affairs directed all local authorities concerned and all the police stations in the whole country to notify the Ministry of any complaint lodged for the breach of the Order.

In view of the above, it is quite clear that the positive and effective measures have always been taken in accordance with the recommendation of the Commission of Inquiry of the ILO Convention (29) of 1930 .

It is important to note here that the Commission of Inquiry recommended only to bring the Village Act and the Towns Act of 1907 in line with the ILO Convention (29). The recommendations do not specify the legal modalities of accomplishing this objective. As a matter of fact this objective has already been accomplished by the Myanmar authorities by the promulgation of Public Order 1/99 of 14 May 1999.

As a long-standing member of the ILO, Myanmar has maintained the tradition of closely cooperating with the organization. To keep in line with this tradition, the Government of the Union of Myanmar has on 14 October 1999 invited a technical team of ILO to visit the country in order that the two sides could discuss issues of mutual interest.

Similarly, the Government also invited Dr. Payaman J. Simanjuntak of Indonesia to visit Myanmar in order that he may see first-hand the real situation on the spot and study the labour issues in the country.

## The First visit of the ILO Technical Cooperation Mission to the Union of Myanmar

Myanmar authorities sincerely believe that the visit of the Technical Cooperation Mission (TCM) could represent a significant step in its efforts to resolve the long-running debate over the alleged forced labour practice in Myanmar. Accordingly, the Myanmar Government took the initiative by extending an invitation to send an ILO Technical Cooperation Mission to Myanmar.

In response to this invitation, an ILO Technical Cooperation Mission, comprising: Mr. Francis Maupain, Special Advisor to the Director-General of ILO; Mr. Max Kern, Chief, Freedom of Workers Section; and Mr. Carmelo Noriel, official from the Regional Office for Asia and Pacific in Bangkok visited Myanmar from 23 to 27 May 2000. The Mission was also accompanied by Mr. Rueben Winston Dudley, Deputy Director, ILO Regional Office for Asia and Pacific in Bangkok, and Mr. Richard Horsey, Adviser, ILO.

The Mission was warmly welcomed by the Myanmar authorities. The Mission managed to accommodate their heavy schedule to three-working days, in order to be able to report to the 88th ILC in timely manner.

The Mission duly acknowledged in its report that the government authorities fully honoured their commitment to give the mission the necessary freedom of action to make contacts and agreed to adjust the programme of meetings with government representatives in order to allow other talks to take place. While in the country, it had discussions with senior officials from the various ministries and departments concerned and also held talks with the Secretary 1 of the State Peace and Development Council, Minister for Foreign Affairs, Minister for Home Affairs, and Minister for Labour".

During those talks "the government representatives indicated that, following the issuance of Order 1/99 and its wide circulation and publication, the exaction of forced or compulsory labour had stopped in practice, and offered reports by various agencies under the Ministry of Home Affairs on their implementation." The Myanmar authorities also confirmed that no complaints of forced or compulsory labour had come to the notice of the law enforcement bodies since the issuance of Order 1/99.

The Myanmar authorities also assured the Mission that "the exaction of labour had to be unlawful to be punishable under Section 374 of the Penal Code."

### *Meeting with the Secretary 1 of the State Peace and Development Council*

A high point of the first visit of the TCM was its meeting with the Secretary 1 of the State Peace and Development Council. The Secretary 1 stressed that "Myanmar wished to have cordial relations with the ILO. He gave a very detailed account of the very rapid changes that were occurring in Myanmar and which, sometimes, caused certain difficulties. Myanmar differed from other countries in many respects. It still had far to go to catch up with its neighbours. But Myanmar did not wish to remain an "island"

among the other States. It wanted to develop relations with its neighbours, the international community and the international organizations. Discussions such as those that were taking place might make it possible to create the basis of trust necessary for this purpose."

"The Mission thanked Secretary 1 for giving it the opportunity to meet him. It expressed its appreciation for the practical arrangements made by the authorities and for the freedom that it had been granted to fulfill its mandate. The Mission had been able to put forward its views with complete frankness during the talks and that in itself constituted a certain success."

" The Secretary 1 thanked the Mission for the frankness with which it had expressed itself and said that he quite understood what it meant. He explained once again in detail the efforts made by the Government to ensure the development of the country and to re-establish unity through political, economic and social reforms. It had, to a great extent, succeeded in its peace efforts with the armed insurgencies. However, because it had been isolated for very many years, its infrastructure was extremely precarious and the improvements being made could only be gradual. The economic sanctions imposed on Myanmar added to its other problems. Although he acknowledged that there might have been recourse to so-called forced labour when work was being carried out on the infrastructure, these practices had ceased before the ILO report had been completed".

While in Yangon, the Technical Cooperation Mission (TCM) met the Minister for Foreign Affairs H.E. U Win Aung and the Minister for Labour H.E. Major-General Tin Ngwe. The Minister for Foreign Affairs explained to the Mission that the authorities could not be accused of harboring any sentiment other than the greatest goodwill towards the people of Myanmar, whose human and spiritual qualities the Mission could appreciate for itself. The Minister for Labour on the other hand pointed out that the country was currently in a transition period and thus it had to be careful with any measures that might affect the existing laws and regulations. Accordingly, he explained that the Order No. 1/99 is the most appropriate measures, and that it is in force and any violator would be punished.

The Mission also met with representatives of the National League for Democracy, ambassadors and diplomats based in Yangon and representatives of several international organizations.

Apart from it, the Technical Cooperation Mission was also given the opportunity to meet a senior Buddhist clergy with whom views and comments were exchanged.

## The second visit of the Technical Cooperation Mission

The Technical Cooperation Mission (TCM) paid a second visit to Myanmar from 20 to 26 October 2000. On this occasion, the Technical Cooperation Mission (TCM), having a closer study of the issue, had a wider understanding of its origin, nature and implications.

### *Meeting with the Secretary 1 of the State Peace and Development Council*

The Mission called on H.E. Lt. General Khin Nyunt, Secretary 1 of the State Peace and Development Council. He said that forced labour might have occurred in the past in the form of requisitioning of porters for military purposes due to the insurgency problem in the country. As that problem is solved, labour for reconstruction of the infrastructure in areas where insurgency once occurred are now remunerated. He emphasized that the Order No. 1/99 would not be just on paper but would have an effect right down to local level and violations of its provisions would be punished.

The Mission, also met the Minister for Foreign Affairs H.E. U Win Aung, the Minister for Labour H. E. Major-General Tin Ngwe and the Minister for Home Affairs, H.E. Col. Tin Hlaing. After the meetings, the Mission concluded that the views expressed by the Ministers confirmed that there was a common political will to achieve a definitive solution.

The Mission also met the Ambassadors from Asia and the Ambassadors from OECD countries separately, and the resident representatives of UN specialized agencies.

The TCM team indicated in its report to the Governing Body meeting that Myanmar Government has made progress and that there is a political will at the highest level of the Myanmar Government towards achieving a definitive solution.

The Myanmar observer representative to the 279th Meeting of the ILO Governing Body stated that Myanmar is also willing to accept an ILO representative either based in the Regional Office in Bangkok or based in Geneva, to observe, assess or assist the national supervisory mechanism in the implementation of Convention 29 on Forced Labour.

### *Order Supplementing Order 1/99 and concrete measures by the Myanmar Government*

Immediately following the visit of the Technical Cooperation Mission, the Government of Myanmar, with the suggestions and advises by the TCM, issued the Order Supplementing the Order No. 1/99 on 27 October by which it prohibits forced labour in the country and thereby showing to the world its seriousness and its commitment to the principles of ILO.

Subsequently, various government departments issued orders supplementing the above mentioned Order. The State Peace and Development Council issued separate directive on 1 November 2000 to all the Chairmen of the State and Divisional Peace and Development Councils who are also regional commanders of the armed forces. A National Supervisory Committee, chaired by the Minister for Labour was also formed to monitor and evaluate the implementation process of the Order.

Before the 279th Meeting of the Governing Body of the ILO, Myanmar delegation met various regional groups of the ILO and worked closely with the AGC in Geneva. Many delegates expressed their understanding and sympathy and appreciated Myanmar's efforts for a solution to the issue.

## Development at the 279th Meeting of the Governing Body

At the 279th Meeting of the Governing Body of the ILO, in recognition of the efforts by Myanmar, Malaysia, on behalf of the ASEAN member states of the ILO namely Indonesia, Philippines, Singapore and Vietnam, made a joint statement urging the Governing Body to take into account the latest positive developments, and Myanmar and the ILO to continue cooperation and to remain engaged in finding a lasting and effective solution. The joint statement was supported by Sudan, Russia, China, India, Pakistan and Algeria. Malaysia as a Titular Member of the Governing Body, also tabled a counter draft resolution which was co-sponsored by the above ASEAN countries to defer implementation of those measures adopted at the 88th session of the International Labour Conference.

However, despite repeated requests by Malaysia, the Chairman of the Governing Body did not have the draft resolution circulated to all Members of the Governing Body. Nor did he put it to a vote and the Governing Body eventually decided that all measures adopted at the 88th ILC would take effect on 30 November 2000 as the Governing Body as a whole was not satisfied with the progress in Myanmar. Furthermore, the Chairman ended the meeting abruptly thereby depriving the members from delivering their statements explaining their positions after the vote.

The Myanmar observer delegation made an oral protest to the Director-General of the ILO against the unfair and improper conduct of the meeting. It also handed its undelivered statement to the Director-General of the ILO and transmitted to the Chairman of the Governing Body, and requested them that it be circulated as the official document of the ILO.

In the Statement, the Permanent Representative of Myanmar stated that the Governing Body's decision is most unfair, unreasonable, unjust and is totally unacceptable. For these reasons, Myanmar

delegation totally and categorically rejects the decision and dissociates itself from it and any activities and effects connected with it. Accordingly, Myanmar would cease to cooperate with the ILO in relations to the ILO Convention 29 and any activity connected to it.

Subsequently, the Permanent Representative of Myanmar also wrote a letter to the Chairman of the Governing Body, lodging a protest against the unfair and improper conduct of the Governing Body.

In his letter, the Permanent Representative of Myanmar stated that at the meeting, the Chairman made a glaring procedural blunder, and contested the propriety and correctness of the unfair, improper and undemocratic way in which it was conducted.

Likewise, on behalf of the ASEAN countries concerned, Malaysia also registered dissatisfaction of the ASEAN members to the Chairman over the unfair treatment to them at the said meeting. They stated that it is their firm view that every alternative measure should be given careful consideration in situations where the decision of the Governing Body creates a precedent on a matter involving sanctions.

It is crystal clear that the present situation arose out of the attempts by some Western countries to exert undue pressure on Myanmar and isolate it.

Nevertheless, although Myanmar has dissociated herself from the decision of the meeting of the Governing Body of the ILO and decided to cease to cooperate with the ILO in relation to the ILO Convention 29 and any activity connected with it, she will, at the national level, continue to implement the legislative, executive and administrative measures she has already taken with a view to ensuring that there be no forced labour in Myanmar.

## Developments in the field of human rights

Myanmar whole-heartedly subscribes to the human rights norms enshrined in the Universal Declaration of Human Rights. On numerous occasions, it has underscored that the Government neither permit nor condone any human rights violations. As a developing country, Myanmar gives particular attention to basic human rights such as food, clothing and shelter of the people.

At the same time, the Government of the Union of Myanmar is also prepared to co-operate with the relevant international organizations, wherever necessary and appropriate. One example of which is the significant step which the Government took in that direction in mid-1999. It received in Yangon a delegation from the International Committee of the Red Cross (ICRC) and made detailed arrangements for the delegation to visit the prisons in Myanmar and to interview the inmates in accordance with the ICRC standard procedures. The visits to the prisons were very successful and productive as the Government extended full co-operation to the ICRC delegation. The visits enabled both the ICRC and Myanmar to build mutual trust and goodwill and it is the initial step towards further co-operation with the ICRC.

Furthermore, in July 1999, the Government received a fact-finding mission of the Troika of the European Union in Yangon. It is hoped that the mission will pave the way for further significant strengthening of the relations between EU and Myanmar.

Similarly, in August 1999, the Government accepted Mr. Chris Sidoti, the Chairman of the National Commission for Human Rights of Australia to visit Myanmar. The visit provided an opportunity for Myanmar and Mr. Sidoti on the possible establishment of a national human rights institution in Myanmar. It also opened an avenue for co-operation between the two countries in the field of human rights.

Myanmar continued co-operation with the United Nations by accepting Mr. Alvaro de Soto, Assistant Secretary-General of the United Nations to visit Myanmar. He arrived in November 1999 and while in Yangon, he met the authorities concerned and some leaders of the national races who have exchanged arms for peace and entered the legal fold.

Similarly, the Government has accepted the visits of Special Envoy of the Secretary-General, Mr. Razali Ismail.

## Religious tolerance

Myanmar is a predominantly Buddhist country as nearly ninety percent of its population of over 48 million are Buddhists. Understandably, those citizen of other faiths may be concerned about possible persecution or intolerance by another faith which is dominant. This concern, which is without reason, has been exploited by some for their own political motivation. Based on this misinformation, allegations on religious intolerance in Myanmar were deliberately made to mislead the public opinion of the international community.

Nothing can be further from the truth. As a matter of fact, religious harmony and freedom in Myanmar is well known to the outside world. The Government of the Union of Myanmar fully believes the importance of religious freedom in a multi-racial country like Myanmar and gives equal treatment to all the religions in the country. Our previous two Constitutions provided for safeguards against religious discrimination and religious intolerance. Similarly, the fundamental principles we have agreed upon in the National Convention process guarantee religious indiscrimination and religious tolerance.

As religious harmony and freedom in the country is a tradition shared by all faiths, the Government has taken all necessary steps to encourage this prevailing harmony. This is done by continuous contacts with the respective religious leaderships and providing necessary assistance in both financial and material terms in order that they may be able to promote their faiths effectively.

The Government is determined to promote and protect, to the best of its ability, all the religions in the country and help all religious groups in all possible ways to co-exist harmoniously with each other.

## The right to development

The most fundamental and essential requirement for a country like Myanmar is to fulfill the basic needs of the people---food, clothing and shelter and also to raise their standard of living. Other aspects of human rights cannot be effectively implemented without fulfilling these basic rights. Civil and political rights are important but the Myanmar people believes that economic, social and cultural rights are equally important.

With this belief, the Government is making efforts for the advancement of economic and social conditions in the country where peace and tranquillity prevail currently. A transition from a socialist economy to an open-market one was made and the private sector plays the major component of the market system. It has led the achievement of sustained economic growth for the country over the past several years. Myanmar achieved an average annual growth rate of 7.5 percent against the original target of 5.6 percent in its four-year plan from 1992 to 1996. During the plan period, total investment also increased by an annual growth rate of 31.6 percent. This was achieved entirely by the country's own resources and foreign direct investment, without the benefit of ODA (Official Development Assistance) and concessional loans. But the currency crisis of Asia has resulted in 5.3 percent reduction of foreign direct investment commitments in fiscal year 1997-98 compared to those in previous fiscal years. It resulted in slow downs in economic growth.

For the sustained development of the country, an adequate infrastructure is a pre-requisite and the Government is focusing its efforts on infrastructure development. The Government has completed to-date 170 bridges including 5 Ayeyarwady River-crossing bridges, 114 dams, 43 hospitals, 79 dispensaries, 35959 primary schools, 2112 secondary schools, 953 high schools and 3844 miles of road, to mention just a few statistics and also border area development on an unprecedented scale for national races living in frontier areas.

Another sector to which the Government is paying particular attention is the agriculture sector. This sector accounts for the 38 percent of GDP, 40 percent of total exports and employs 63 percent of total labour force. Therefore, economic sector occupies a place of importance in Myanmar economy. With a favourable ratio of population to land, and abundant water resource, it is also an area Myanmar has a marked comparative advantage. For this, the first of the four national economic objectives of the Government is the development of agriculture, the base for all-round development of other sectors of the economy as well.

With the aim of promoting the agriculture sector, the Government has laid down five strategic measures under which it is carrying out the programme of extensive land reclamation in wet land and virgin land, and granting large land holding to private companies. As a result, the private sector has added 1.1 million acres to the existing arable land. To provide sufficient water, new reservoirs and dams were constructed. The aim of the Government is to increase its rice export and to contribute to food supply both domestically and regionally.

## Rights of the child and the status of women

To upgrade the standards of health, education and fitness, the Government has laid down its social objectives accordingly and relevant ministries are working toward the successful realization of these objectives.

The Government believes that in order to uplift the morality of the country, the rights of women and children must be protected and further promoted as these groups form the most vulnerable groups. To reach this goal is to work within the framework of the UN system and accordingly Myanmar became State party to the UN Convention on the Rights of the Child in 1991 and in 1997 acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women. The initial reports were already submitted to the respective committees. These measures clearly demonstrate the importance the Government attaches to the welfare of women and children of the nation.

The Child Law was promulgated in 1993 and the National Committee on the Rights of the Child was formed to effectively implement the provisions of the Law. Apart from it, Committees on the Rights of the Child were also formed in State, Division and District levels. Juvenile courts were established and township judges were conferred as Juvenile Judges in areas where no such courts were established yet. The departments of health, basic education and social welfare have carried out the programmes of action in collaboration with the UNICEF.

Though there are constraints in carrying out the task of implementing the Convention fully and the fact was mentioned in the National Report of Myanmar to the Committee on the Rights of the Child, the Government of Myanmar is doing its utmost to overcome the difficulties on its own resources.

The Myanmar women have played an important role in many aspects of the country, but the most prominent movement is in social work. They have taken part in enriching and enhancing individual and group development or at promoting social and economic conditions. In the area of promotion and protection of rights of women, the Government has also assumed a leading role for the advancement of women and the Myanmar National Committee for Women Affairs (MNCWA) was formed in 1996.

The Myanmar National Working Committee for Women Affairs (MNWCWA) was subsequently formed to implement the developmental activities for women systematically. This Committee holds meetings every three months and visits various townships throughout the country in order to implement the Plan of Actions. The formation of MNWCWA was followed by the formation of State, Division, District and Township (grass-roots level) working committees for women's affairs. The working committee has identified eight critical areas of concern for the advancement of Myanmar women and they are as follows:-

1) Education - The main objective of this area is to promote the enrollment retention and completion of primary education of girls. One of the activities that is being implemented to achieve this objective is to support needy students.

2) Health - The sub-committee stresses the promotion of family health and also strengthened the Essential Obstetric-care services.

3) Violence Against Women - Although it is not a major issue in Myanmar, the working committee decided to address this issue as it can hinder women's advancement. Counselling centres to give services to the victims of marital violence have been established. A task force for trafficking in women and a group receiving communications directly from the victims are set up to combat violence against women effectively.

4) Women and Economy - This sub-committee implement activities such as skill-based or vocational training in non-traditional modern technology to gain easy access to employment. Small loans are given to women casual sellers in the markets.

5) Women and Culture - To preserve cultural heritage talks on national heroes, tradition, customs and religion are conducted, with the co-operation of schools and community leaders.

6) Women and Environment - Women have actively participated in environmental conservation.

7) Women and Media - National media are used to enhance the awareness of the women's role and contributions to the family, community and country and more women are involved in the management of the media.

8) The Girl-Child - Although there is no discrimination against the girl-child, the committee implements activities to promote the advancement of the target group.

Under its auspices, the First and Second Myanmar Women Conferences were held in December 1998 and January 2001 with the aim to develop the life of women in Myanmar. Plan of Actions to bring about interests of women in Myanmar was adopted by the Conference.

The Regional Consultation on Violence against Women and the Role of Health Sector was held in Yangon in early 1999 as the issue of violence against women is of major concern of the world community.

Because of the unique culture , tradition and practice of the society in Myanmar, violence against women is not a major issue in the country. Nevertheless, surveys and research projects are launched in the country in order to obtain more data on this subject. Discussions and seminars on violence against women are held in various townships and counselling is also made available to the women in need of such service.

Lady officials of Myanmar also participated in ASEAN meetings to exchange experience and knowledge in the field of women issues. In short, the role of Myanmar women plays an important part in the national development process.

Apart from this National Machinery, the NGOs have played a major role in alleviating social and economic conditions. There are many women's organizations and among them are Myanmar Maternal and Child Welfare Association (MMCWA), the Myanmar Women's Sports Federation (MWSF), the Women chapter of the Myanmar Medical Association (WCMMA) and the Myanmar Women Entrepreneurs Association (MWEA) to name a few. These NGOs are working together with the National Committee for the advancement of women. The Government renders assistance to them in order that they may be able to carry out their programmes more efficiently.

The Myanmar Maternal and Child Welfare Association (MMCWA), the country's largest non-governmental organization with branches and associations all over the country has been working closely with the Government to promote the health and well-being of mothers and children.

The Association is actively playing a leading role in the following sectors such as catering to the health of mothers and children in urban and rural areas, reducing maternal and infant death rates,

conducting training in breast feeding, taking part in National Immunization Day activities, birth spacing projects and taking control measures for AIDS, prevention of iodine deficiency ,providing health care services. These could be seen as important activities concerning women and children. The Association also aided the officials of the Health Ministry to draw health plan. The Association received the WHO award for outstanding performance on primary health care.

The Myanmar Women Entrepreneurs Association is also active in enhancing the role of the Myanmar women. It is implementing income-generating programmes for rural women and give small loans to women who run small-scaled, home-based industry.

The Myanmar Women Sports Federation promotes the participation of women in sports as well as the development of women physically, mentally and morally. The Myanmar women have acclaimed outstanding achievements at international competitions.

## Conclusion

The Government of Myanmar is committed to the establishment of a democratic political system and taking steps towards the achievement of that goal.. At the same time, the Government is making every effort to improve the overall situation of the country in the face of various constraints and obstacles and undue international political pressures. The fact that peace stability is now prevailing in areas where insurgencies were wide-spread in the past and the fact that the Government has accomplished many achievements on the economic front attests to the measure of the success of the Government's endeavours.

Consideration of the situation of human rights in Myanmar without fully taking into account all aspects of the difficulties, confronted in transition to a new political system, and the concrete achievements of the Government in many areas, outlined above, will not be fair and balanced by any standards. It is, therefore, hoped that the draft resolution will faithfully reflect the objective situation in the country and the positive measures taken by the Government in a fair and balanced manner.

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